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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91191495
Party	Defendant Playgirl Key Club, Inc.
Correspondence Address	LAWRENCE E. ABELMAN ABELMAN, FRAYNE & SCHWAB 666 THIRD AVENUE NEW YORK, NY 10017-5621 UNITED STATES
Submission	Answer
Filer's Name	Julie B. Seyler
Filer's e-mail	JBSeyley@lawabel.com, Rdahl@lawabel.com
Signature	/Julie B. Seyler/
Date	09/21/2009
Attachments	PLAYBOY V PLAYGIRL - ANSWER - OPP NO 91191495.pdf (6 pages (283361 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Playboy Enterprises International Inc.

Opposer,

v.

Playgirl Key Club, Inc.

Applicant.

Opposition No. 91191495

APPLICANT'S ANSWER TO THE OPPOSITION

1. Applicant admits Paragraph 1.
2. Applicant admits Paragraph 2.
3. Applicant admits Paragraph 3.
4. Applicant denies that the trademark PLAYGIRL and PLAYGIRL TV are not in use in commerce. Applicant admits that the slogan THE FIRST ADULT NETWORK FOR WOMEN is not in current use in commerce.
5. Applicant has insufficient information as to the allegations set forth in Paragraph 5 and therefore denies same.
6. Applicant has insufficient information as to the allegations set forth in Paragraph 6 and therefore denies same.
7. Applicant has insufficient information as to the allegations set forth in Paragraph 7 and therefore denies same.
8. Applicant admits that Exhibit A was attached to the Notice of Opposition but has insufficient information as to the allegations set forth in Paragraph 8 and therefore denies same.
9. Applicant has insufficient information as to the allegations set forth in Paragraph 9 and therefore denies same.

10. Applicant has insufficient information as to Opposer's claimed use of the PLAYBOY trademarks and therefore cannot neither admit nor deny the allegations set forth in Paragraph 10 and therefore denies same.

11. Applicant has insufficient information as to the allegations set forth in Paragraph 11 and therefore denies same.

12. Applicant has insufficient information as to the allegations set forth in Paragraph 12 and therefore denies same.

13. Applicant has insufficient information as to the allegations set forth in Paragraph 13 and therefore denies same.

14. Applicant has insufficient information as to the allegations set forth in Paragraph 14 and therefore denies same.

15. Applicant repeats and realleges its answers to Paragraphs 1-14 of this Notice of Opposition as if repeated with the same force and effect as if each was set forth in full at this point.

16. Applicant denies Paragraph 16.

17. Applicant denies Paragraph 17.

18. Applicant has insufficient information as to the services upon which Opposer claims it is using the PLAYBOY trademarks and therefore denies the allegations set forth in Paragraph 18.

19. Applicant has insufficient information as to the services upon which Opposer claims it is using the PLAYBOY trademarks and therefore denies the allegations set forth in Paragraph 19.

20. Applicant denies Paragraph 20.

21. Applicant repeats and realleges its answers to Paragraphs 1-20 of this Notice of Opposition as if repeated with the same force and effect as if each was set forth in full at this point.

22. Applicant denies Paragraph 22.

23. Applicant denies Paragraph 23.

24. Applicant denies Paragraph 24.

25. Applicant denies paragraph 25.

AFFIRMATIVE DEFENSES

26. Applicant has used the trademark PLAYGIRL in commerce since 1965.
27. As a result of said long term continuous use in commerce for over 40 years, the trademark PLAYGIRL is famous.
28. Applicant's mark PLAYGIRL has co-existed with Opposer's mark PLAYBOY for over 40 years.
29. Upon information and belief, there have been no instances of actual confusion between Opposer's mark PLAYBOY and Applicant's mark PLAYGIRL or vice-versa.
30. Applicant is the owner of incontestable Registration No. 1,005,058 for PLAYGIRL for magazines.
31. Applicant is the owner of incontestable Registration No. 1,520,640 for PLAYGIRL for pre-recorded videotapes containing materials for adult entertainment.
32. Applicant is also the owner of the following registrations for PLAYGIRL:

Trademark	Goods/Services	Registration No./Use Dates
PLAYGIRL	Computer services, namely, providing an on-line chat room for the transmission of messages in the field of adult entertainment relating to naked or partially clad men Entertainment services, namely, providing a website on a global computer network in the field of adult entertainment featuring images of naked or partially clad men, and information relating to sex, relationships, gender politics and other areas of general interest	2839373 August 1996
PLAYGIRL	Computer services, namely, providing an on-line magazine in the field of adult entertainment featuring images of naked or partially clad men, and information relating to sex, relationships, gender politics and other areas of general interest	2891479 August 1996

PLAYGIRL Entertainment for Women	Periodical publications, namely, magazines featuring adult material	3,042,551 1978
PLAYGIRL TV	<p>Retail store services, mail order services, and electronic catalogue services in the field of videotapes and DVDs featuring television programs in the field of adult entertainment</p> <p>Television broadcasting, cable television broadcasting, digital cable television transmission, and satellite transmission services in the field of adult entertainment</p> <p>Production of television programs in the field of adult entertainment; distribution of television programs in the field of adult entertainment to cable television systems, television broadcast networks, and satellite broadcast networks; entertainment, namely, providing a television program in the field of adult entertainment via cable television systems, digital cable systems, broadcast television networks, and satellite broadcast networks; entertainment services, namely, providing television, cable television, digital cable television and satellite television programs, features, series, shows, and movies in the field of adult entertainment</p>	3,139,798 February, 2006
PLAYGIRL	Posters, calendars and photographs	3,357,030 January 1992
PLAYGIRL	Retail store services, mail order services, and electronic catalogue services featuring cosmetics and toiletries, soaps, oils and cremès for sexual stimulation, dietary supplements, key chains, locks, razors, cutlery, home entertainment equipment namely radios, televisions, audio, video and data recorders, transmitters and playback machines, computers, computer games, compasses, audio and video recordings, DVDs, CDs, motion pictures, cameras, optical devices, namely, binoculars, telescopes, magnets, sex toys, namely vibrators, electric lamps, watches, clocks,	3,308,184 January 2006

	car seats for infants, strollers and carriages for infants, jewelry, books, magazines, posters, paper signs, printed photographs, writing instruments, desk accessories, measuring rulers, albums, decals, greeting cards, tote bags, knapsacks, attaché cases, key cases, coin cases, wallets, handbags, carrying bags, duffel bags, shopping bags, tents, sleeping bags, pillows, furniture, blankets, towels, clothing, footwear, hats, pins, rugs, wall hangings, toys and sporting goods, foods, beverages, cigarette lighters	
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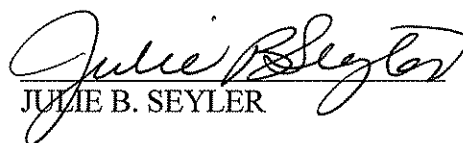
33. The existence of the above-identified registrations is prima facie evidence that Applicant's mark PLAYGIRL can co-exist with Opposer's mark PLAYBOY without confusion.

37. The channels of trade and class of purchasers of the parties' respective services are commercially unrelated.

38. Upon information and belief, Opposer's Mark PLAYBOY co-exists with the registered trademark PLAYGUY for identical or commercially related goods and services.

WHEREFORE, it is respectfully requested this Opposition be dismissed with prejudice.

Respectfully submitted,

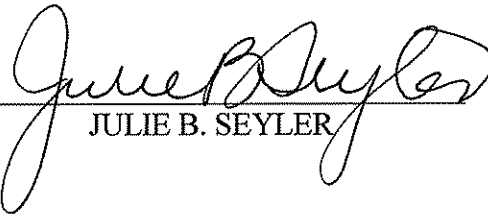

JULIE B. SEYLER

ABELMAN FRAYNE & SCHWAB
666 Third Avenue
New York, New York 10017
212-949-9022

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **APPLICANT'S ANSWER TO THE OPPOSITION** was filed by first class mail, postage prepaid this 21st day of September, 2009 upon the following:

G. Roxanne Elings, Esq.
Anna Dalla Val, Esq.
GREENBERG TRAURIG LLP
200 Park Avenue
New York, New York 10166


JULIE B. SEYLER